



## CITY OF LODI COUNCIL COMMUNICATION

**AGENDA TITLE:** Adopt Resolution Approving Negative Declaration, and Introduce Ordinance Amending Municipal Code Title 13 – Public Services, Chapter 13.12 “Sewer Service”, by Repealing and Reenacting Section 13.12.020 (20.) Relating to Definition of Industrial System; and further Repealing and Reenacting Section 13.12.150 Relating to “Connections Outside City.”

**MEETING DATE:** September 7, 2005

**PREPARED BY:** LSA Associates

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**RECOMMENDED ACTION:** Adopt Resolution Approving Negative Declaration, and Introduce Ordinance Amending Municipal Code Title 13 – Public Services, Chapter 13.12 “Sewer Service”, by Repealing and Reenacting Section 13.12.020 (20.) Relating to Definition of Industrial System; and further Repealing and Reenacting Section 13.12.150 Relating to “Connections Outside City.”

**BACKGROUND INFORMATION:** On June 15, 2005, City Council directed staff to amend Municipal Code Section 13.12.150, Connections Outside City, to allow wineries located outside the City limits to discharge industrial grade wastewater into the City’s Industrial Sewerage System. The proposed Municipal Code amendment includes the following provisions:

- Prohibition – No Domestic Sewerage System connections will be permitted.
- Authorization – City Council may, by contract, allow winery industrial wastewater connections.
- Permit – Wineries required to obtain Industrial System Discharge Permit detailing limitations on the types of chemicals and waste allowed and prohibited to be discharged.
- Rates and charges – Rates and charges applicable to wineries are explicitly described.
- Non-Assignment – Wineries will not be permitted to sell capacity or accept wastewater from other locations.
- Downtown Retail Presence – Wineries are required to maintain a retail presence via a wine tasting room in Downtown Lodi during the entire term of its connection to the City’s sewer system. The proposed language specifies how large the retail area must be (i.e., at least 500 square feet), how many hours per week it must be open to the public (i.e., 40 hours), and that wine tasting room must be located in Downtown Lodi, specially bounded by Church Street, Lodi Avenue, Lockeford Street, and the Union Pacific Railroad tracks. If requirement for Downtown tasting room is not met within 12 months of connection, the proposed amendment requires that the winery pay the annual downtown and promotional in-lieu fee, which will be set by Resolution after the Ordinance takes effect.
- Annexation – Wineries also agree to waive any right to protest City annexation of their property, if the City deems annexation feasible and advisable.
- Definition – The definition for Industrial System is revised to clarify what industrial sewage is and how it is different than domestic sewage.

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APPROVED:


  
Blair King, City Manager

The General Plan Land Use Element includes a number of goals and policies that support the proposed Municipal Code amendment to preserve the City's small-town and rural qualities, including the agricultural land uses that form the greenbelt surrounding the community, as well as promoting Downtown reinvestment, pedestrian activities, and economically vitality (i.e., Policies LU-A.1, A.4, B.1, B.2, B.6, D.1, D.3, and Goals LU-B and D). The proposed amendment successfully implements these highly valued community geographic areas by ensuring that the wineries located outside the City limits, which serve a vital role in preserving the City's greenbelt and historic identity, as well as integrates the local wine products into the City's premiere pedestrian retail shopping district.

**ENVIRONMENTAL DETERMINATION:** An Initial Study prepared for this project determined no significant environmental would result from its implementation and, therefore, a Negative Declaration is proposed. A Notice of Intent to adopt the Negative Declaration for the project was noticed in the Lodi News Sentinel on August 1, 2005, indicating that the 30-day public review period for the Initial Study/Negative Declaration would close on August 30, 2005. No comments were received. The document was also sent to the State Clearinghouse for review by applicable State agencies. As of the completion of this report, no comments from agencies had been received.

**FISCAL IMPACT:** Expected increase in revenues to Water/Wastewater Fund.

**FUNDING AVAILABLE:** Not Applicable.

  
Steve Schwabauer, City Attorney

RESOLUTION NO. 2005-193

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING A NEGATIVE DECLARATION FOR A LODI MUNICIPAL CODE AMENDMENT TO SECTION 13.12.150, SEWER CONNECTIONS OUTSIDE CITY, TO ALLOW WINERIES LOCATED OUTSIDE THE CITY LIMITS TO CONNECT AND DISCHARGE INDUSTRIAL GRADE WASTEWATER INTO THE CITY'S INDUSTRIAL SEWERAGE SYSTEM AND FOR AN INDUSTRIAL SYSTEM DISCHARGE PERMIT FOR THE VAN RUITEN FAMILY WINERY LOCATED OUTSIDE THE CITY LIMITS TO CONNECT AND DISCHARGE INDUSTRIAL GRADE WASTEWATER INTO THE CITY'S INDUSTRIAL SEWERAGE SYSTEM AND LODI MUNICIPAL CODE AMENDMENT TO SECTION 13.12.020 (20) RELATING TO DEFINITION OF INDUSTRIAL SYSTEM

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WHEREAS, in the spring of 2005, the City was approached by the Van Ruiten Family Winery, located at 340 West Highway 12 in unincorporated San Joaquin County, requesting that the winery be allowed to connect and discharge industrial grade wastewater into the City's industrial sewerage system; and

WHEREAS, Lodi Municipal Code Section 13.12.150 currently prohibits wastewater service connections and discharge from facilities located outside the City limits; and

WHEREAS, the City's industrial sewerage system has adequate capacity to collect and dispose of wastewater from all industrial users within the City limits; and

WHEREAS, West Yost & Associates engineering consultants prepared an analysis of the volume and strength of the Van Ruiten winery's industrial grade wastewater and concluded that the City's industrial wastewater system facilities could accommodate the additional wastewater flow from the Van Ruiten winery; and

WHEREAS, wineries have existed in the Lodi community for over 150 years and play a significant role in the community's identity and local economy; and

WHEREAS, wineries play a vital role in preserving the agricultural and rural greenbelt that surrounds Lodi's urban area; and

WHEREAS, Downtown Lodi is the City's premier pedestrian retail area and extensive City investment to revitalize Downtown has occurred in recent years; and

WHEREAS, increasing stringency in water quality regulations have made wastewater discharge compliance difficult for wineries to continue their agricultural operations; and

WHEREAS, on June 15, 2005, City Council directed staff to initiate a Lodi Municipal Code amendment to allow wineries located in unincorporated San Joaquin County to connect and discharge into the industrial sewerage system if the system could accommodate the additional wastewater flow and the winery opened a retail, wine tasting business in Downtown Lodi; and

WHEREAS, also on June 15, 2005, the City Council executed a Memorandum of Understanding (MOU) with the Van Ruiten Family Winery (dated June 7, 2005) to allow the Van Ruiten winery to connect and discharge its industrial grade waste into the City's industrial sewerage system in return for establishing a wine tasting room in Downtown Lodi; and

WHEREAS, an Initial Study was prepared for the proposed Lodi Municipal Code amendment and Industrial System Discharge Permit and a proposed Negative Declaration was circulated for public comment from August 1, 2005 through August 30, 2005, which is incorporated herein by reference; and

WHEREAS, the State Clearinghouse circulated the proposed Negative Declaration to State agencies for review on August 8, 2005 (SCH #2005082025); and

WHEREAS, no public or agency comments were received; and

WHEREAS, the City Council held a hearing on the proposed Lodi Municipal Code amendment and Industrial System Discharge permit and considered all public testimony and pertinent information and documents.

NOW, THEREFORE, BE IT RESOLVED that the City Council makes the following findings:

1) A number of General Plan Land Use Element goals and policies support preservation of Lodi's small-town and rural qualities, including the agricultural uses that form a greenbelt surrounding the community as well as promoting downtown reinvestment, pedestrian activities, and economic viability (i.e., Goals LU-B and D, and Policies LU-A.1, a.4, B.1, B.2, B.6, D.1, D.3), as discussed in the Initial Study/Negative Declaration.

2) The proposed project does not have the potential to substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; substantially reduce the number or restrict the range of an endangered, rare or threatened species; or eliminate important examples of the major periods of California history or prehistory because no significant habitat, species, or resources are located in the area of the proposed sewer connection.

3) The proposed project does not have the potential to achieve **short-term** environmental goals to the disadvantage of long-term environmental goals because the City's Regional Water Quality Control Board (RWQCB) industrial wastewater system permit authorizes a specified amount of industrial grade wastewater to be discharged onto the City's agricultural fields, of which the proposed project would be consistent with and not exceed the systems capacity and allowed wastewater discharge chemical composition, as described in the Initial Study. Further, General Plan Land Use Element Goal J provides a safeguard that ensures that adequate capacity is retained for future industrial wastewater generators within the City limits by requiring the City maintain adequate levels of sewer collection and disposal service to meet the needs of existing and projected development at City build-out. The proposed Lodi Municipal Code amendment requires that industrial wastewater generators located outside the City limits demonstrate that adequate capacity exists prior to authorizing the outside connection and discharge.

4) The proposed project does not have possible environmental effects that are individually limited but cumulatively considerable because, as described above, the amount of industrial grade wastewater contributed to the City's industrial sewerage system is within the systems capacity and consistent with and would not exceed the RWQCB's permitted discharge amount or flow chemical composition requirements. As described above, General Plan Land Use Element Goal J requires that the City maintain adequate levels of sewer collection and disposal service to meet the needs of existing and projected development at City build-out, thus providing a safeguard to ensure that adequate sewer capacity will be reserved for future industrial waste generators within the City limits and requiring outside generators to demonstrate that adequate capacity exists prior to authorizing the outside connection and discharge. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

5) The environmental effects of the proposed project would not cause substantial adverse effects on human beings, either directly or indirectly, because, as described above and in the Initial Study, the RWQCB permit ensures that water quality standards and requirements are complied with to ensure human beings are not adversely impacted.

6) The proposed project requires that wineries located outside the City limits establish a wine tasting room in Downtown Lodi, which currently has adequate parking, roadway capacity, and land use designations to accommodate pedestrian-oriented, retail wine tasting rooms.

BE IT FURTHER RESOLVED that the Lodi City Council hereby adopts the Negative Declaration for the proposed Lodi Municipal Code amendments.

I hereby certify that Resolution No. 2005-193 was passed and adopted by the City Council of the City of Lodi in a regular meeting held on September 7, 2005, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, and Mayor Beckman  
NOES: COUNCIL MEMBERS – Hitchcock  
ABSENT: COUNCIL MEMBERS – None  
ABSTAIN: COUNCIL MEMBERS – None



SUSAN J. BLACKSTON  
City Clerk

DRAFT

ORDINANCE NO. \_\_\_\_

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI AMENDING LODI MUNICIPAL CODE TITLE 13 – PUBLIC SERVICES – CHAPTER 13.12 “SEWER SERVICE,” BY REPEALING AND REENACTING SECTION 13.12.020 (20.) RELATING TO DEFINITION OF INDUSTRIAL SYSTEM; AND FURTHER REPEALING AND REENACTING SECTION 13.12.150 RELATING TO “CONNECTIONS OUTSIDE CITY”

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

Section 1. Lodi Municipal Code Title 13 “Public Services” Chapter 13.12 “Sewer Service” is hereby amended by repealing and reenacting Section 13.12.020 (20.) – relating to definition of Industrial System, and shall read as follows:

20. “Industrial System” means the portion of the sewerage system used primarily for industrial waste which is compatible for discharging directly into the ponding and irrigation system at the treatment plant. Waste not suitable for direct application to land is prohibited in the Industrial System, which includes, but is not limited to, contents of chemical toilets, septic tanks, waste holding tanks, waste sumps and domestic sewage.

Section 2. Lodi Municipal Code Title 13 “Public Services” Chapter 13.12 “Sewer Service” is hereby amended by repealing and reenacting Section 13.12.150 – relating to Connections Outside City, and shall read as follows:

WHEREAS:

- a. The City of Lodi’s economic health is reliant on the economic health of the local wine industry.
- b. The City has expended significant sums to revitalize its downtown area and consolidate its reputation as a wine tourism destination.
- c. The City and its downtown area will obtain significant economic benefit from local wineries locating tasting rooms in downtown Lodi
- d. Local wineries are subject to increasing regulation from the California Regional Water Quality Control Board regarding the discharge of their wastewater, making it difficult for them to continue to engage in agricultural pursuits;
- e. San Joaquin County will retain its authority over land use approval for wineries located within County jurisdiction; and
- f. The City of Lodi’s General Plan contains the following land use element goals:
  - i. Policy LU-A.1 – The City shall seek to preserve Lodi’s small-town and rural qualities.
  - ii. Policy LU-A.4 – The City shall promote reinvestment in downtown Lodi and in the Eastside area that upgrades the general quality of development in these areas.

- iii. Goal LU-B – To preserve agricultural land surrounding Lodi and to discourage premature development of agricultural land with nonagricultural uses, while providing for urban needs.
- iv. Policy LU-B.1 – The City shall encourage the preservation of agricultural land surrounding the City.
- v. Policy LU-B.2 – The City should designate a continuous open space greenbelt around the urbanized area of Lodi to maintain and enhance the agricultural economy.
- vi. Policy LU-B.6 – The City shall encourage San Joaquin County to retain agricultural uses on lands adjacent to the City.
- vii. Goal LU-D – To promote and retain development in downtown Lodi.
- viii. Policy LU-D.1 – The City shall preserve and promote downtown Lodi and the City's social and cultural center and an economically viable retail and professional office district.
- ix. Policy LU-D.3 – The City shall enhance pedestrian activity and pedestrian amenities in downtown Lodi.

NOW THEREFORE BE IT FURTHER ORDAINED AS FOLLOWS:

1. Service Outside Lodi. No discharge from facilities or properties outside the City of Lodi shall be allowed into the Domestic Sewerage or storm drainage systems. The City Council may, by contract allow connection from winery facilities outside Lodi to the Industrial Sewerage System on the terms set forth in this section so long as the system has adequate existing capacity to service the waste.
2. Terms of Connection. Any connection permitted pursuant to the Contract called for in this Section shall contain the following minimum terms:
  - a. Permit: Applicant shall comply with the terms of the Industrial System Discharge Permit to be issued by the City which will include but not be limited to limitations on flow, BOD, ph, TDS and suspended solid concentrations and prohibitions on discharge of hazardous waste in conformance with the City's Discharge Permit.
  - b. Rate/Surcharge: Winery's rate for discharge shall be set at 150 percent of the City's standard published rate for Industrial Waste.
  - c. Capacity Charge: Winery shall pay a one-time capacity charge based on annual flow and BOD loading prior to connection per this chapter.
  - d. Non-Assignment: Applicant may not sell capacity or accept wastewater from other locations.
  - e. Downtown Retail Presence: Applicant shall open and operate a wine tasting room to market its products in Downtown Lodi during the entire term of its connection to the City's sewer system. The establishment shall be operated within the following minimum requirements:
    - i) it shall be at least 500 square feet and have its products available for sampling and sale, and be open a minimum of

40 hours per week, including Saturday and Sunday and shall be located in Downtown Lodi as defined by the area bordered by Church Street, Lodi Avenue, Lockeford Street and the Union Pacific Railroad tracks.

- ii) If this condition cannot be met within twelve months of connection, Applicant shall pay an annual downtown development and promotional in-lieu fee in the amount established by the City Council. The fee shall be retroactive for one year and shall be assessed annually (until such time as the requirements of subsection i of this paragraph has been satisfied) as annually adjusted according to the Bay Area-All Items Consumer Price Index. If condition i above cannot be met within six years of connection, this Agreement will terminate and Applicant will be required to make alternate arrangements for its wastewater.
- f. Annexation. Applicant, in consideration for receiving City sewer service, will consent to the annexation to the City of Lodi of the its property served by the City Industrial Sewerage system, waives any right to protest the annexation and assigns to the CITY any right to vote on the annexation. Annexation shall occur when and if the CITY deems the annexation of the subject property feasible and advisable. In the event the annexation is sought by Applicant, Applicant agrees to pay CITY an amount to cover the subject property's proportionate share of the costs to conduct the annexation. In the event that the Applicant does ultimately connect to City service, Applicant agrees to enter into a short form memorandum of agreement expressing the obligations of this paragraph in recordable form.

Section 3 - No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 5. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this \_\_\_\_ day of September, 2005.

\_\_\_\_\_  
JOHN BECKMAN  
Mayor

Attest:

SUSAN J. BLACKSTON  
City Clerk



State of California  
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. \_\_\_\_\_ was introduced at a regular meeting of the City Council of the City of Lodi held September 7, 2005 and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held \_\_\_\_\_, 2005, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. \_\_\_\_\_ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON  
City Clerk

Approved as to Form:



D. STEPHEN SCHWABAUER  
City Attorney

07/29/2005 09:11

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LODI NEWS SENTINEL

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**NOTICE OF INTENT TO ADOPT  
A NEGATIVE DECLARATION  
FOR a municipal code  
amendment and  
industrial system  
discharge permit**

Notice is hereby given that the City of Lodi (City) has completed a Draft Initial Study and Negative Declaration for a proposed Municipal Code Amendment and Industrial System Discharge Permit for the Van Ruiten Family Winery (project) in accordance with the California Environmental Quality Act.

The proposed project involves an amendment to Lodi Municipal Code Section 13.12.150, Sewer Service Outside City Limit, to add language to allow connections to the City's Industrial Waste system for wineries located outside the City limits, and to allow the Van Ruiten Family Winery, located outside the City limits, to connect and discharge wine processing waste into the City's Industrial Waste system.

The Draft Initial Study prepared by the City was undertaken for the purpose of deciding whether the project may have a significant effect on the environment. On the basis of the Draft Initial Study, City staff has concluded that the project will not have a significant effect on the environment and, therefore, has prepared a Negative Declaration. The Draft Initial Study reflects the independent judgment of the City.

The City Council will consider the Negative Declaration at its regularly scheduled meeting on Wednesday, September 7, 2005 at 7:00 p.m. in Carnegie Forum, 305 W. Pine Street, Lodi, California. If the City Council finds that the project will not have a significant effect on the environment, it may adopt the Negative Declaration and may approve the project without the preparation of an Environmental Impact Report.

Copies of the Draft Initial Study and the Negative Declaration are on file and available for review at the Planning Department located in Lodi City Hall at 221 West Pine Street, Lodi, CA, 95240. The City will receive comments on the Draft Initial Study and Negative Declaration for a 30-day period, commencing on August 1, 2005 through August 30, 2005. Any person wishing to comment on the Draft Initial Study and Negative Declaration must submit such comments in writing to the City at the following address:

Richard Prima, Director  
Public Works Department  
City of Lodi  
PO Box 3006  
Lodi, CA 95241

Richard Prima, Director  
City of Lodi Public Works Department  
Aug. 1, 2005 — 08502073